

GO COMMITTEE #1
March 12, 2015

MEMORANDUM

March 10, 2015

TO: Government Operations and Fiscal Policy Committee

FROM: Linda Price^{LP}, Legislative Analyst

SUBJECT: Final Report – Implementation of Recommendations for Procurement and Payment Training

The Government Operations and Fiscal Policy Committee will review the Inspector General Report #OIG-15-001, *Implementation of Recommendations for Procurement and Payment Training*. The final report is on © 1- 24. The OIG's presentation to the Committee is on © 25-29.

Those expected to attend this meeting include:

- Edward Blansitt, Inspector General
- John Hummel, Deputy Inspector General
- Beryl Feinberg, Chief Operating Officer, Department of General Services (DGS)
- Angela Dizelos, Chief, Division of Central Services, DGS

I. Background

As part of the 2014-2017 OIG Work Plan, prior audit and investigative reports are being revisited to ensure that OIG recommendations have been implemented. OIG-15-001 revisits the January 2011 Inspector General Report: *Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts* (© 14-24), which examined questionable invoice payments on a Department of General Services (DGS), Division of Facilities Management (DFM) contractor.

The report found that invoice payments lacked sufficient documentation for labor or material costs, or included no documentation at all. Following the 2011 findings, the report recommended that DGS provide payment processing training to their contract administrators to ensure that payments to contractors met all legal requirements prior to approval and disbursement. An "emphasis on the receipt and review of critical supporting documentation for invoices" was identified as a focus area. DGS agreed with the OIG recommendations and agreed to require all DFM contract administrators and project managers to attend, or re-attend, the County's contract administrator training.

The objectives of the OIG's follow-up review were to:

- Review DGS training policies and procedures for contract administrators;
- Determine whether DFM contract administrators as of January 2011 attended the contract administrator training as the DGS said they would; and
- Identify the method(s) used to monitor their training.

II. Summary of Findings & Recommendations

Up until December 2010, the Office of Human Resources (OHR) offered a 5-day Contract Administration Program. From January 2011 through October 2013, no contract administration courses were offered, but the Office of Procurement did offer seven contract administration forums during this period (see © 11). During that time, OHR worked with the Office of the County Attorney, Office of Procurement, and Department of Finance to revise the training program. In 2013 OHR introduced a Contract Administrator Learning Path. Unlike the prior 5-day training program, the courses offered under the new learning path take anywhere from two to six hours for each class. Contract administrators, and those who manage contracts for the County have five years to complete all six classes within the path. Course descriptions are included on © 9-10 for the following courses in the learning path.

- 1) Overview of Contract Administration
- 2) Contract Drafting
- 3) Contract Negotiation
- 4) How to Contract with Grant Funding
- 5) Contract Compliance Programs
- 6) Contract Administration Payment Process

The OIG Final Report identified 36 DGS staff functioning as contract administrators, and 8 of those individuals completed the previous 5-day training. Six DGS staff attended at least one learning path course, including four staff who have completed more than one learning path course. However, no DGS staff attended the two Payment Processing classes offered in 2014. The OIG report identifies the Payment Process course as the class that most directly addresses the training recommendation made in the 2011 report. This two-hour course covers how contract terms and conditions relate to the payment process, the roles and responsibilities and the payment process. Additionally, the report found no individual in DGS tasked with ensuring that DGS staff have received training. This had been addressed by supervisors in Employee Performance Plans and Appraisals.

The OIG Final Report made the following three recommendations:

- 1) Require each DGS employee functioning as a contract administrator to address Learning Path training in his/her annual Employee Performance Plan;
- 2) Require each of these employees to take at least one Learning Path course every year in the 5-year period, and that this performance metric be part of every annual Performance Evaluation; and
- 3) Evaluate the effectiveness of the Contract Administrator Learning Path training in FY2015. This could consist of, among other things, a review of student course evaluation forms.

III. Executive Branch Response to Report

In the October 3, 2014 Chief Administrative Officer's (CAO) response to the Inspector General (© 11-13), the CAO agreed with each of the three OIG recommendations. The CAO cited "facility county-wide operational needs, coupled with on-going staffing shortages, facility incidents, and emergencies" as

explanation for DGS staff not having attended the two scheduled sessions in 2014. DGS worked with OHR to schedule two special sessions of the Payment Process training for staff. A total of 86 DGS staff participated in the sessions, 42 on September 30 and 44 on October 9. Of the 86 total participants, 58 were identified as being in immediate need of training by OIG and DGS. DGS reports that all project managers attended the training as well as the names that were individually listed in inquiries.

The Committee may be interested in seeking comment from DGS on how they will ensure that staff continue to complete at least one contract administrator learning path courses each year until the requirements are met. Will DGS continue to request special training sessions for staff, similar to the two special Payment Processing classes, or will staff enroll individually as time permits?

Additionally, the Committee may wish to ask if any other measures have been implemented to ensure proper processing of contract payments.

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Final
Report

Implementation of
Recommendations for
Procurement and
Payment Training

Report # OIG-15-001

October 10, 2014

Follow-Up on a Previously
Issued OIG Report:
Project #0043

Review of Montgomery County Government Procurement and
Payment Practices for Selected Contracts (January 7, 2011)

Montgomery County, Maryland
Office of the Inspector General

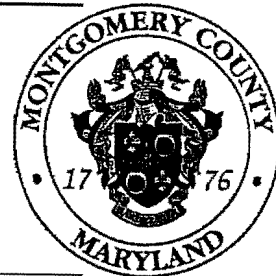


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Implementation of Recommendations for Procurement and Payment Training

Introduction

In January 2011, the Office of the Inspector General (OIG) issued a report entitled, "*Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts*" (see Appendix C) to the Director, Department of General Services (DGS). In that report, the OIG described its tests of the contract administration and invoice payments to a particular DGS Division of Facilities Management (DFM) contractor. In light of several findings with respect to these payments, the OIG recommended that DGS provide training to all contract administrators who are responsible for reviewing and approving invoices submitted by contractors.¹ DGS concurred with the findings and recommendations, providing a summary of actions planned or in effect to address the OIG recommendations, which included scheduling "all DFM CAs and PMs [Project Managers] to attend, or re-attend, the County's Contract administrator training."

In the OIG's 2014-2017 Work Plan, emphasis was placed on review of audit and investigative recommendations made in prior-year OIG reports. These follow-up reviews help ensure that recommendations made in OIG reports have been properly addressed and that effective improvements have been implemented. In this limited follow-up review, we looked at the OIG recommendation for contract administrator training and the existing or anticipated actions specified by DGS in response to the OIG recommendations.

Our inquiry was conducted in accordance with the inspection standards contained in the *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency (January 2012).

¹ Contract administrators generally serve as a liaison between the County and the contractor, accept or reject the contractor's performance, and approve or reject invoices for payment.

OIG Recommendations Review

Objectives, Scope, and Methodology

The objectives of our limited review were to:

- Review DGS training policies and procedures for contract administrators;
- Determine whether the DFM contract administrators as of January 2011 attended the contract administrator training as the DGS said they would; and
- Identify the method(s) used to monitor their training.

We documented and reviewed the County and DGS policies for training contract administrators. We interviewed DGS and Office of Human Resources staff and reviewed training completion documents for DGS contract administrators from calendar year (CY) 2009 to May 2014.

Background

A complaint received in 2009 drew the Office of the Inspector General's (OIG) attention to allegations of questioned payments to a Contractor by the Department of General Services (DGS). These payments spanned 18 time and materials contracts from FYs 2005 to 2009. As a result of the complaint, the OIG issued a report entitled *Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts* dated January 7, 2011.

The 2011 report referred to tests of 8 of the Contractor's contracts and 172 paid invoices. Of those 172 invoices, 166 did not have any supporting documentation for material costs totaling \$232,932 and 104 had no supporting documentation for labor costs totaling \$533,477. Finally, six invoices did not have any supporting documentation at all and totaled \$685,529.

In each of the eight contracts, the Contractor was to submit records of time (labor) with its invoices to the contract administrator for review and approval prior to payment. The contracts also stated that material costs are subject to verification only when the material purchased is of a "major cost" and when the receipts are requested by the Director of DGS. The contract administrators advised the OIG that it was not a standard practice to request receipts for material costs from the contractor.

OIG Recommendations Review

The OIG recommended that the Director of DGS provide training to all DGS contract administrators responsible for monitoring the Contractor and other contractors who provide similar services, with an emphasis on the receipt and review of critical supporting documentation for invoices. The Director of DGS concurred with this recommendation, saying that DGS would require "all DFM contract administrators and PMs [Project Managers] to attend, or re-attend, the County's Contract administrator training."

The OIG also recommended that DGS determine if the 110 questionable payments (104 for labor and 6 for undetermined costs) were valid, and that further testing of the Contractor's and other contractor's invoices paid in FY 2009 to FY 2011 be undertaken to determine if those payments were legitimate. The Director of DGS addressed these recommendations in his response to the 2011 OIG report.

Facts

Following issuance of the OIG Report, over an 18 month period the Office of Human Resources (HR) partnered with the County Attorney's Office, the Office of Procurement, the Department of Finance, the Office of Management and Budget, and DGS to update and revise the County's previous Contract Administration curriculum for contract administrators and Management Leadership Service. The first of these new courses, as part of a "learning path", was offered in October 2013.

The previous training was a 5-day course, but there were frequent absences among those scheduled to attend. In between the last 5-day training offered in December 2010 and the new learning path, HR suspended Contract Administration training. This was during a time when the County reduced certain spending as a result of the recession. In an effort to partially compensate for the suspension of training, the Office of Procurement sponsored six Contract Forums for "spot training" during this period.

The new learning path is 6 separate courses that can take anywhere from 2 to 6 hours each. This learning path of 6 courses must be completed in 5 years by contract administrators who have not previously completed the 5-day training. This requirement was issued by the Director of HR and applies to all Executive branch agencies.² In this report, we did not consider any agency other than DGS. The courses are now all taught by Montgomery County government internal subject matter experts.

² Adler, Joseph. Memorandum: Revised Contract administrator Program and Learning Path for MLS and Contract administrators. October 14, 2013.

OIG Recommendations Review

The courses covered in the learning path are as follows:

1. Overview of Contract Administration
2. Contract Drafting
3. Contract Negotiation
4. How to Contract with Grant Funding
5. Contracts Compliance Programs
6. Contract Administration Payment Process

Details of these sessions are included as Appendix A. Determining the effectiveness of this training was outside of the scope of this follow-up review.

Class 6 in the learning path covers how contract terms and conditions relate to the payment process, roles and responsibilities, and a description of the payment process. Class 6 is the class that most directly addresses the recommendation made in the January 2011 OIG report. Class 6 is a two-hour session.

There is no individual in DGS specifically tasked with monitoring the training of DGS employees. Employee Performance Plans include a section on training so that supervisors can address training as part of the annual performance plan and appraisal process.

Analysis

The OIG asked DGS for a list of contract administrators employed by DFM in 2011, so as to consider their subsequent training. DGS was unable to provide this information. As an alternative, the OIG constructed a list of all the employees who signed off on the paid invoices from the Contractor cited in the 2011 report. Our list included seven individuals. Of these individuals, only one is still a DGS employee.³ Although that person is not a contract administrator, the individual's current position requires contract administrator training. The individual has not yet taken this training.⁴ However, the Director of Central Services informed us that the individual will be enrolled when the next schedule of learning path seminars is released in September 2014.

Currently there are 36 DGS employees who function as contract administrators. Looking at training from CY 2009 to May 2014, eight current contract administrators have taken the previous 5-day contract administrator training. The current policy requires all those who did not take the 5-day training to take the new six-course learning path. Of those 28 (36 minus 8) who did not take the 5-day training, 6 have taken at least one of the six courses and 4 of those have taken more than one. None, however, have taken the Contract Administration Payment Process course.

³ Others have since retired, joined other County departments, or work outside the County.

⁴ The individual has, however, taken other training during this period.

OIG Recommendations Review

Conclusion

We conclude that our prior recommendation to DGS to train its contract administrators has been met in small part. However, much remains to be done.

Findings & Recommendations

Our OIG report dated January 2011 recommended "...the Director of DGS provide training to all DGS CAs to ensure that the CAs are knowledgeable and hold contractors accountable to the terms and conditions of the contracts they administer, with an emphasis on the receipt and review of critical supporting documentation needed to properly approve invoices for payment."

While six of the 28 DGS employees who function as contract administrators (and did not take the previous 5-day training) have taken at least one of the Contract Administrator Learning Path courses, none of them have taken the Contract Administration Payment Process course. Even though this course is only two hours in length, it seems most likely to address our recommendation and concern (See Appendix A). This course was offered twice in 2014: March 6 and April 10.

We recognize that contract administrators who must take the Learning Path have five years after taking the first course to complete the entire Learning Path. However, training of only 6 contract administrators out of 28 in a full year of Learning Path training availability (courses were offered from October 29, 2013 to June 17, 2014) does not demonstrate a commitment to training contract administrators.

Those who function as contract administrators fill a very important role at the County. Any misunderstanding of contract terms and requirements can quickly generate losses of County funds, as our January 2011 report showed.

OIG Recommendations Review

We recommend the Director of the Department of General Services (DGS):

- require each DGS employee functioning as a contract administrator to address Learning Path training in his/her annual Employee Performance Plan.
- require each of these employees to take at least one Learning Path course every year in the 5 year period, and that this performance metric be part of every annual Performance Evaluation.
- evaluate the effectiveness of the Contract Administrator Learning Path training in FY 2015. This could consist of, among other things, a review of student course evaluation forms.

Summary of the Chief Administrative Officer's Response

The response from the Montgomery County Chief Administrative Officer (CAO) to the final draft report is included in its entirety in Appendix B. The CAO indicated that the following actions will be taken in response to our recommendations:

- The CAO agreed to require Department of General Services (DGS) Division Chiefs to assure that all staff involved with contracts or processing of invoices address Learning Path training in each employee's Performance Plan,
- The CAO agreed to require all DGS Division Chiefs to ensure that all staff involved with contracts or processing of invoices attend Learning Path courses. The CAO noted that due to unscheduled facility and county-wide operational needs, and on-going staffing shortages, DGS worked with the Office of Human Resources (OHR) to schedule special sessions for DGS staff to supplement the training classes that are only offered several times a year. The CAO reported that a first session on Payment Processing has been completed, and a second training session has been scheduled for October, and
- The CAO agreed to evaluate the effectiveness of the Contract Administrator Learning Path training in FY 2015 through the use of OHR's Division of Training course evaluations.

The CAO's response did not cause us to alter our findings or recommendations.

Appendix A: Description of Contract Administrator Learning Path Courses

1. Overview of Contract Administration

- Enhance knowledge of Montgomery County procurement regulations, policies, and procedures; contract administrator processes; and provisions of the County Charter and Code
- Common procedures and problems that impact the procurement process
- Procurement team member roles and responsibilities

2. Contract Drafting

- Legal authority that governs drafting
- Insight into County required processes leading to contract execution
- Methods of solicitation and source selection within the County
- Reasons a vendor may be excluded from contract award eligibility
- Requirements to form a valid contract
- The required "General Conditions of Contract between County & Contractor" and other necessary provisions
- Public policy requirements impacting procurement contracts
- Using plain English in drafting contracts
- The principles and processes associated with contract administration in Montgomery County Government

3. Contract Negotiation

- "Negotiation" principles defined and applied, as part of contract drafting, implementation, and enforcement processes
- Important negotiation steps
- Communication factors in the negotiation process
- Optimizing success/getting past restraints in the contract negotiation process
- Negotiation range
- Address the concepts of value, fairness, and reasonableness in negotiations

Appendix A: Description of Contract Administrator Learning Path Courses

4. How to Contract with Grant Funding

- Relevant procurement regulations
- Overview of types of Federal, State, Regional and foundation grants that can fund and/or authorize County contracts
- How County Council designates non-competitive contracts
- Criteria and process to add/delete/amend items to non-competitive contract award list
- Roles and responsibilities of contract administrator, procurement, grantee/vendor, and various granting authorities

5. Contract Compliance Programs

- Contract compliance laws/regulations/mandates the County has and which ones apply to a contract
- Process of each contract compliance program, such as its workflow, exemption categories, and how to request waivers/exemptions
- Where to find resources for the programs: laws, regulations, criteria, search engines, etc.
- Whom to contact when issues arise

6. Contract Administration Payment Process

- How contract terms and conditions relate to the payment process
- Roles and responsibilities
- The payment process

Appendix B: Chief Administrative Officer's Response



OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

MEMORANDUM

Timothy L. Fireshne
Chief Administrative Officer

October 3, 2014

TO: Edward L. Blansitt, Inspector General
FROM: Timothy L. Fireshne, Chief Administrative Officer
SUBJECT: Final Draft Report of Audit Report on Contract Administrator Training

I am in receipt of your final draft report on Department of General Services (DGS) Contract Administrator Training. I appreciate the work conducted by the Office of the Inspector General (OIG) in issuing this report.

At the exit conference, DGS confirmed its commitment to ensuring that all Division of Facilities Management Contract Administrators and Project Managers attend or re-attend the County's Contract Administrator training. Since the exit conference, 42 DGS staff attended a special session of the Payments Processing training provided at our request by the Office of Human Resources (OHR) on September 30th. Remaining staff required to complete the training will enroll in the upcoming October 9th session.

As was discussed at the exit conference, our original commitment that staff attend the Contract Administrator training was stalled because the training was not offered from the period of January 2011 to October 2013. During that time, DGS' Office of Procurement worked with OHR, the Office of the County Attorney, the Department of Finance, and the Office of Management and Budget to update, revise, and strengthen Contract Administrator training from a five-day course to a comprehensive Learning Path consisting of six separate courses ranging from two to six hours to be completed in five years.

In a good faith effort to partially compensate for the time when the comprehensive training was being developed, DGS' Office of Procurement offered seven Contract Forums:

- 03/04/11 - Contract Administrator Forum Kickoff
- 09/20/11 - Guidelines for Developing and Writing Specifications/Statement of Work
- 02/24/12 - Introduction to Effective Contract Negotiations
- 04/27/12 - Sustainable Procurement: Your Green Tool Kit
- 09/28/12 - Sustainable Purchasing: Best Practices and Practical Uses
- 02/22/13 - Demystifying the Myth of Oracle and Compliance Issues in Contract Administration
- 04/04/14 - Navigating the Contract Review Committee Process

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Appendix B: Chief Administrative Officer's Response

Edward L. Blansitt, Inspector General
October 3, 2014
Page 2

We remain committed to ensuring that all staff receives appropriate training and that training is a continuous learning process. In support of this goal, we agree with the three recommendations proposed by the OIG. Specific comments concerning each of the review's recommendations are found below.

IG Recommendation: Require each DGS employee functioning as a contract administrator to address Learning Path training in his/her annual Employee Performance Plan.

CAO Response: We agree with the recommendation. All DGS Division Chiefs have been directed to assure that all staff involved with contracts or processing invoices address Learning Path training in the employee's Performance Plan.

IG Recommendation: Require each of these employees to take at least one Learning Path course every year in the 5 year period, and that this performance metric be part of every annual Performance Evaluation.

CAO Response: We agree with the recommendation. All DGS Division Chiefs have been directed to ensure that all staff involved with contracts or processing invoices attend Learning Path courses. Because training classes are only offered several times a year, DGS worked with OHR to schedule special sessions for DGS staff. Forty-two DGS staff attended the first session on Payment Processing, which was held on Tuesday, September 30, 2014, from 1:00 PM to 3:00 PM, in the Fleet training room at the Equipment Maintenance & Transit Operation Center. The second training session has been scheduled for October 9th, from 9:00 AM to 11:00 AM, in the Department of Finance conference room. As of today, 16 DGS staff have enrolled in the second session.

The Contract Administration Payment Process class, under the newly developed Learning Path, has been offered twice: March 6 and April 10, 2014. Due to facility county-wide operational needs, coupled with on-going staffing shortages, facility incidents, and emergencies, staff were not able to attend the two trainings. During the period of the two days that the course was offered, DGS documented 30 unscheduled incidents that required the immediate attention of Facilities staff. Scheduling special sessions for DGS staff offers additional opportunities for all to attend.

IG Recommendation: Evaluate the effectiveness of the Contract Administrator Learning Path training in FY 2015. This could consist of, among other things, a review of student course evaluation forms.

CAO Response: We agree with the recommendation. Under the current process, OHR's Division of Training reviews each of the course evaluations. OHR may either send a summary of class participant feedback to the instructors or contact them and highlight things if there seems to be an issue. For example, OHR shared feedback from a recent class with the Procurement

Appendix B: Chief Administrative Officer's Response

Edward L. Blansitt, Inspector General

October 3, 2014

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Division Chief, who served as co-instructor for the course. The Procurement Division Chief met with the other instructor, who was from the Office of the County Attorney, to review training materials and make some modifications based on feedback from the course evaluation or questions raised by participants. This feedback will be considered and incorporated before the next overview is taught. As subject matter experts, staff from the Office of Procurement will continue to participate in the feedback process, but because this is in an HR learning path, we will defer to them as the training experts, to make final decisions on the courses. The subject matter experts will continue to meet to go over each of their modules and modify them as needed.

If you have any questions, please feel free to contact me or Assistant Chief Administrative Officer Bonnie Kirkland, who can be reached at (240) 777-2593 or Bonnie.Kirkland@montgomerycountymd.gov.

TLF:ag

cc: John Hummel, Deputy Inspector General

David Dise, Director, DGS

Fariba Kassiri, Assistant Chief Administrative Officer

Bonnie Kirkland, Assistant Chief Administrative Officer

Beryl L. Feinberg, Chief Operating Officer, DGS

Angela Dizelos, Chief, Division of Central Services, DGS

Richard Jackson, Chief, Division of Facilities Management, DGS

Pam Jones, Division Chief, Office of Procurement, DGS

Michael Harkness, Assistant Chief, Division of Facilities Management, DGS

Appendix C: 2011 Review by the Office of the Inspector General



OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 27, 2011

TO: Valerie Ervin, President, County Council
Isiah Leggett, County Executive

FROM: Thomas J. Dagley
Inspector General

SUBJECT: Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts

In accordance with reporting requirements set forth in the County's Office of Inspector General (OIG) law, the attached interim report dated January 7, 2011 with management's response is submitted to you in advance of releasing it no earlier than January 31, 2011. This review is based on information the OIG received beginning in late 2009 regarding allegations of questioned payments to a specific vendor for services provided under contracts executed and administered by Montgomery County Government.

Please do not hesitate to contact me at 240-777-8241.

Attachment

cc: Council Members
Steve Farber, Director, Council Staff
Timothy L. Firestone, Chief Administrative Officer



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240-777-8248, FAX 240-777-8254, Email: IG@montgomerycountymd.gov

Appendix C: 2011 Inspector General Report



OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 7, 2011

TO: David B. Dice
Director, Department of General Services

FROM: Thomas J. Dagley
Inspector General

SUBJECT: Interim Report - Review of Montgomery County Government
Procurement and Payment Practices for Selected Contracts

Attached please find a January 5, 2011 memorandum from Gary G. Weishaar, Assistant Inspector General, regarding his review of Montgomery County Government (MCG) contract administration and invoice payment practices for Tito Contractors, Inc. (Tito), a Department of General Services (DGS) contractor. This review by the Office of Inspector General (OIG) is in response to information received by the OIG beginning in October 2009 regarding allegations of questioned payments by MCG to this vendor in 2007 and 2008 for services provided under contracts executed and administered by DGS.

Mr. Weishaar's review results include the identification of approximately \$1,219,007 in questioned costs¹ based on tests of 172 invoices approved for payment by DGS contract administrators in FYs 2007 and 2008.

I agree with Mr. Weishaar's recommendations regarding DGS training for contract administrators and the need for additional work to resolve the questioned costs identified from our tests of invoices paid in FYs 2007 and 2008. Based on the information provided to us by MCG, we were unable to determine whether the labor and undetermined costs identified in Appendix A were valid. I also agree with Mr. Weishaar's recommendation that additional tests of other Tito and contractor invoices that were approved by in FYs 2009 and 2010 and the first six months of FY 2011 are needed. The additional testing is needed to determine the extent to which other questioned payments may exist because of inadequate supporting documentation. These

¹ The term "questioned cost" means: a cost that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the expenditure of funds; a cost that, at the time of the review, is not supported by adequate documentation; or a finding that the expenditure for the intended purpose is unnecessary or unreasonable.



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Appendix C: 2011 Inspector General Report

recommendations appear consistent with our discussion when we met on October 28, 2010. It is my understanding that they are also consistent with the discussion when you met with Mr. Weishaar on December 16, 2010.

Please advise me in writing, by January 25, 2011, of your agreement or disagreement with the finding and recommendations reported by Mr. Weishaar, and any corrective action that has been initiated or planned. Your response will help us determine the follow-up work needed for the OIG to complete this review.

We appreciate the support extended to us by DGS throughout this review.

Re: #0043

Attachment

cc: Kathleen Boucher, ACAO

Appendix C: 2011 Inspector General Report




OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 5, 2011

TO: Thomas J. Dagley
Inspector General

FROM: Gary G. Weishaar 
Assistant Inspector General

SUBJECT: Review of Montgomery County Government Procurement and Payment Practices
For Selected Contracts

This report provides the results of my review of invoices, payments and Montgomery County Government (MCG) procurement and payment practices related to the administration of contracts between the Department of General Services (DGS) and Tito Contractors, Inc. (Tito). This review was based upon allegations received by the Office of Inspector General (OIG) regarding possible questioned payments by MCG to this vendor in FYs 2007 and 2008 for services provided under contracts executed and administered by DGS.

Background

The DGS awarded 18 time and material contracts to Tito from FY 2005 through FY 2009. MCG paid approximately 3,038 Tito invoices totaling over \$14.2 million during this time period. These contracts were for various services, including snow removal, carpentry services, small repairs and restoration of parking facilities, masonry services, parking garage sweeping and miscellaneous cleaning.

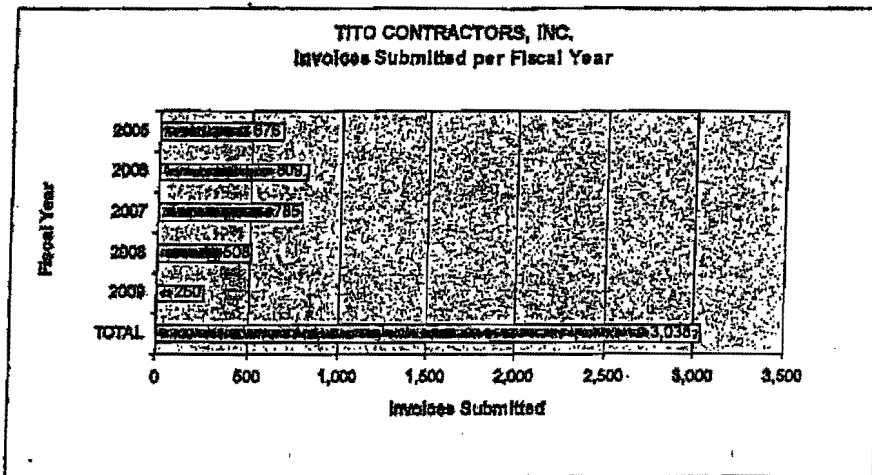
Invoices submitted by Tito and payments approved by DGS for the FY 2005-2009 period are presented in Exhibits 1 and 2 below.



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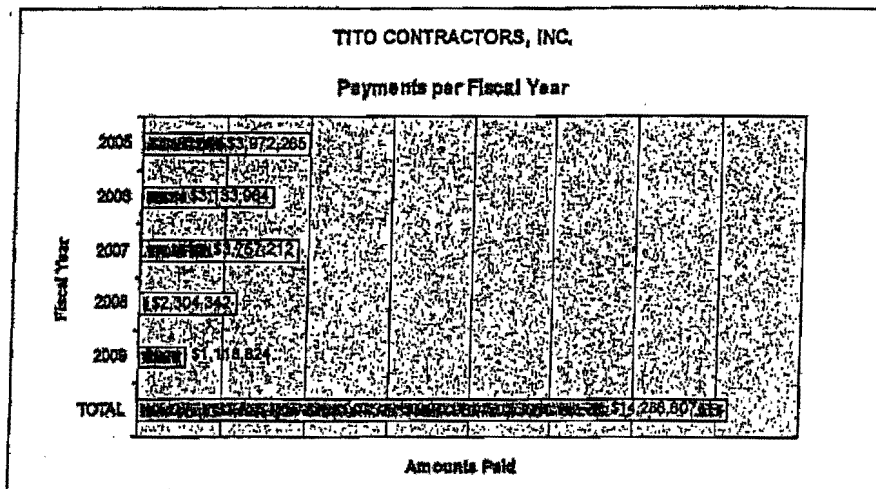
Appendix C: 2011 Inspector General Report

EXHIBIT 1



Source: Department of Finance Data File

EXHIBIT 2



Source: Department of Finance Data File

Appendix C: 2011 Inspector General Report

This review encompassed eight contracts and tests of 172 invoices ranging from \$220 to \$182,464 that were submitted by Tito, approved by DGS contract administrators (CAs), and paid by the Department of Finance in FYs 2007 and 2008. The total dollar amount of the invoices tested was approximately \$1,529,190. The tests were conducted to determine the validity of the allegations and to determine if Tito, along with DGS CAs, complied with DGS boiler plate (BP) contract language and the terms and conditions of specific Tito contracts executed by DGS. This review did not evaluate specific services provided by the contractor to MCG.

OIG Results

Finding 1. Our testing of 172 invoices paid in FYs 2007 and 2008 disclosed that 104 of the invoices lacked supporting documentation for labor costs totaling approximately \$533,477 that were approved by the CA, and paid by the Department of Finance. Additionally, 166 of the 172 invoices tested did not have any supporting documentation for material costs totaling approximately \$232,932. Finally, six invoices totaling approximately \$685,529 did not have any supporting documentation and did not identify if the costs were for labor, material, or another payment category.

Analysis

The OIG reviewed DGS boiler plate (BP) contract language and the terms and conditions of applicable Tito contracts that were executed by DGS and served as the basis to approve and pay the contractor's invoices. Each contract contained specific language which required Tito to submit records of time (labor) with their invoices to the CA for review and approval prior to payment by the Department of Finance. During our testing, we verified with DGS management, CAs, and Department of Finance accounts payable managers that all supporting documentation submitted to MCG by the contractor and available to CAs to approve each payment was provided to the OIG.

The OIG tested 172 invoices ranging from \$220 to \$182,464 that were paid in FYs 2007 and 2008, totaling approximately \$1,529,190, against BP and contract specific attributes to determine compliance with DGS documentation requirements regarding the submission, review, approval, and payment of the contractor's invoices for labor and material costs.

For the invoices that we tested, 166 contained line items for labor and material costs. We determined that a timesheet, or other appropriate record of time, to document labor costs for 104 of the 166 invoices was missing. Based on these test results, we identified approximately \$533,477 as questioned labor costs¹.

In addition, we found that documentation to support the cost and purchase of material was missing for all of the 166 invoices. The BP language stated that material prices are subject to verification only when the material purchased is of a "major cost" and when the receipts are requested by the Director of DGS. The OIG determined that the material costs for the 166

¹ The term "questioned cost" means: a cost that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the expenditure of funds; a cost that, at the time of the review, is not supported by adequate documentation; or a finding that the expenditure for the intended purpose is unnecessary or unreasonable.

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invoices totaled approximately \$232,932 and ranged from 0% to 100% of the total amount of the invoice. The material costs for the invoices tested ranged from approximately \$11 to more than \$17,000. During our testing, the CAs who approved invoices advised us that it was not a standard practice to request receipts for material costs from the contractor.

For the remaining six invoices which totaled approximately \$685,529, we did not identify any information on the invoices which identified the category(ies) of the approved costs. These invoices, which ranged from approximately \$6,166 to \$182,864, were deemed "undetermined costs".²

The results of our testing of the 172 invoices can be found in Appendix A of this report.

When I discussed the test results with the Director of DGS on October 28, 2010 and December 16, 2010, there was a general agreement that each of the attributes used for testing was critical to ensure the validity and appropriateness of the invoices reviewed, approved, and paid. In addition, there was general agreement that follow-up work by DGS was necessary to determine if the questionable payments identified by the testing were valid. Further, there was general agreement that additional testing of Tito invoices for FYs 2009 and 2010 and invoices of other contractors who provided similar services during this period was needed to determine the extent and significance of any other questioned payments for this type of contracted services.

Finally, the Director of DGS indicated that a management review of the MCG BP contractual language was needed to either quantify or eliminate the use of the term "major cost", to clarify DGS requirements regarding contractors submitting supporting documentation for materials used for each job, and the use of supporting documentation by CAs to review and approve invoices for payment.

Recommendations: We recommend that the Director of DGS provide training to all DGS CAs responsible for Tito contracts and other contractors who provide similar services to ensure that the CAs are knowledgeable and hold contractors accountable to the terms and conditions of the contracts they administer, with an emphasis on the receipt and review of critical supporting documentation needed to properly approve invoices for payment. We also recommend that the Director of DGS determine if the 110 questionable payments (104 for labor costs and 6 for undetermined costs) were valid. In addition, we recommend that DGS conduct further testing of other Tito and contractor invoices that were paid in FYs 2009 and 2010 and the first six months of FY 2011 to determine if the contractors and CAs adhered to the terms and conditions of DGS contracts regarding supporting documentation requirements and whether the payments by MCG were legitimate or require corrective action.

² This term "undetermined costs" means: a cost that was questioned because it was not defined by the contractor as being for labor, material or any other payment category and no supporting documentation was provided to support the amount represented on the invoice.

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APPENDIX A

Schedule of FY 2007-2008 Invoices Test Results
Tito Contractors, Inc.
Montgomery County Office of Inspector General
Project #0043

Contract Number	Contracted Services	Total Dollars Paid for Invoices Tested	Number of Invoices Tested	Number of Questioned Labor Costs	Number of Invoices with Labor Costs without a Time Sheet	Number of Invoices with Undetermined Costs	Number of Invoices with Undetermined Costs	Total Questionable Costs
7506030132AA	Carpentry services	\$29,332.45	11	\$19,286.45	11	-	0	\$19,286.45
6506060182AB	Snow removal services	\$176,488.40	64	\$12,407.00	4	-	0	\$12,407.00
6506060098AA	Masonry services	\$88,609.17	34	\$67,148.50	34	-	0	\$67,148.50
35060900390BH	Painting garage, sweeping and miscellaneous cleaning	\$168,693.79	7	\$161,207.66	7	-	0	\$161,207.66
3504510292AA	Small repairs and restoration in parking facilities	\$679,363.00	5	Unknown	-	\$679,363.00	5	\$679,363.00
3502030263AA	Carpentry services	\$3279,678.57	47	\$172,147.20	46	-	1	\$178,613.65
3502030076AA	Painting services	\$79,687.73	3	\$71,086.08	3	-	0	\$71,086.08
25050002010AA	Painting services	\$27,357.40	1	\$26,981.00	1	-	0	\$26,981.00
TOTALS		\$1,529,190.61	172	\$533,477.89	104	\$685,529.45	6	\$1,219,007.34

² Excludes all material costs due to a lack of clear criteria regarding DGS' supporting documentation requirements. See narrative on pages 3 and 4.

⁴ The other 62 invoices, although supported by a time sheet, were not supported by other documentation as required under this contract, such as feasible reports of all completed work locations, documentation that the contractor communicated to the contract administrator the start and end times for snow removal operations, and Mental GPS tracking reports for all crews for work performed by the occurrence of a snow event.

⁵ This contract number was identified from the tested invoices provided by DGS. All other contract numbers were identified from Department of Finance records.

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DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

David E. Disc
Director

MEMORANDUM

January 26, 2011

TO: Thomas J. Dagley
Inspector General

FROM: David E. Disc
Director, Department of General Services

SUBJECT: Office of the Inspector General - Interim Report - Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts

After reviewing the interim report referenced above, I am in agreement with the findings and recommendations outlined therein related to contract payment practices in the Department of General Services (DGS), Division of Facilities Management (DFM). Ensuring that contracts are well managed is of great concern and has been a focus DFM management since the department was formed in FY09. To that end, the division chief and assistant manager were charged with improving contract management and additional staff has been placed to improve invoice processing and approval.

During the period of time covered by the invoices reviewed by the Office of the Inspector General (OIG), the former Department of Public Works and Transportation (DPWT) was reorganized in FY09 with its various components transferred into or now comprising the departments of Transportation, Environmental Protection and General Services. The former DPWT Facility Management and Operation Section were restructured and became the DGS Division of Facilities Management. A division manager was not recruited until late FY09. Among the first challenges facing this new division chief was organizing the management and back office operations of the new division.

Following is a summary of actions already taken and planned to ensure sustained improvement in contract management and payment practices.

- In FY11 DFM revised its internal process to include a Public Administrative Assistant (PAA), Project Manager (PM) and Contract Administrator (CA) in matching invoices to contracts and supporting documents with the following protocol:
 - Review contract terms and conditions prior to performance

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- Administrative assistant date stamps all received invoices and supporting documentation before issuing to project managers and CA for review
 - CA reviews invoices and supporting documents to insure deliverables and performance is in accordance with the contractual terms and conditions
 - Review all costs for determine if they're allowable and allocable to the contract
 - Check and verify labor rates with contracted rates
 - Check and verify material rates with contract rates
 - Check and verify arithmetic calculations are correct
 - Scan/archive all documents used to support approval of payment on invoices
- DGS will conduct further testing of Tito Contractors, Inc. (Tito) and other contractor invoices paid from FY09 to the present to determine the effectiveness of corrective measures already in place and what additional training is required for CAs and PMs. Nevertheless, we will schedule all DFM CAs and PMs to attend, or re-attend, the County's Contract Administrator training, which includes a review of the standard terms and conditions, as well as invoice matching, and accountability standards. This is a valuable refresher whether or not one has already attended the course. We are working with the Office of Procurement to schedule this week long class at the earliest opportunity. DFM has 41 active contracts between 2009 and 2011 totaling over \$8 million. Contracts used by DFM and the Department of Transportation (DOT) will receive further testing based on the OIG's recommendations. A timeline for this work will be established once we retrieve archived records.
 - Regarding 110 "questionable payments" (104 for labor costs and 6 for undetermined costs) DFM with assistance from DGS budget and accounting personnel hasn't been successful in locating any additional records posting labor cost from 2007 to 2008. Please note, DGS has no records for payments related to parking facilities as those facilities are maintained under the direction of DOT. Specifically, the report references these contract payments for work in parking facilities:
 - contract number 5506030390BB total paid invoices of \$168,693.79 for parking garage sweeping and miscellaneous cleaning
 - contract number 5504510292AA total paid invoice of \$679,363.00 for small repairs and restoration in parking facilities (\$) invoices undetermined costsDGS will request DOT to review its records for further consideration to validate costs and payments.
 - In reference to the finding that 166 of 172 invoices tested lacked supporting documentation for material costs totaling approximately \$232,932, a thorough review of records verified the lack of documentation in the County's records. Therefore, DGS will approach Tito to determine what records it might still have to support these charges.
 - Revise standard terms and conditions to remove the term "major cost" and require that new contracts direct contractors to submit supporting documents for all purchased items and supplies with invoices that list:
 - Labor hours used
 - Cost per labor hours

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- Materials used
- Unit price for materials
- Credit on labor
- Credit on materials and labor

Until such time as the standard terms and conditions can be updated, which requires County Attorney review, this requirement will be added to contracts via a "special provisions" supplement to the contract.

As per my discussions with Assistant Inspector General Gary Welshaar, I have had some prior awareness of the issues detailed in the report, though not to the extent detailed. It is our full intent to follow up on the OIG's recommendations immediately and determine additional supporting documentation on those classified as outstanding and questionable payment. Further, staff is reviewing other DFM administered contracts since FY09 forward to test thoroughness of contract management and accountability and will follow up with any omissions found. DFM staff training will be coordinated within 30 days and our revised protocol for approving invoices is currently being developed for instituting simultaneously with this training.

A follow-up report: Training of DGS Contract Administrators

EDWARD BLANSITT, INSPECTOR GENERAL

MARCH 12, 2015

Background and Objective

Background

In January 7, 2011, OIG reported that a test of 172 paid contractor invoices to DGS revealed:

- 166 invoices with no support for materials purchased totaling \$233,000
- 104 invoices with no support for labor costs of \$533,000
- 6 invoices with charges of \$686,000 and no support at all

OIG recommended DGS research these findings and train all DGS Contract Administrators in effective payment review practices. The DGS Director agreed to do so.

Our Objective

Follow up on our training recommendation.

Steps Taken

Steps Taken

Became familiar with CA training:

- CA Training until December 2010 was a 5-day course
- CA Training was suspended December 2010 while County developed a CA Learning Path
- The revised CA Learning Path (with 6 classes to be taken over 5 years) was first offered 10/29/2013

Identified all current CAs and checked their training records

Findings and Recommendations

Findings

Of 36 current DGS CAs, eight had taken the old 5-day training

Of the 28 left, six had taken at least one course in the Learning Path

22 of the 28 were untrained as of September/October 2014

Recommendations

Require that DGS Employee Performance Plans address training

Require DGS CAs to take at least one class in the CA Learning Path annually

Evaluate the effectiveness of the CA Learning Path in 2015



CAO's response

The County Chief Administrative Officer will

Using the DGS Division Chiefs, ensure all CAs address training in annual Performance Plans

Using the DGS Division Chiefs, ensure all DGS staff who are involved with contracts or process invoices attend Learning Path courses

Evaluate the effectiveness of the Contract Administrator Learning Path training in 2015 through the use of OHR's Division of Training course evaluations.